surely capable of improvement in the light of Professor Williston's article in 15 HARV. L. REV. 767.

On the other hand, as has already been said, many common errors are avoided. The usual statement that a seal creates a presumption of consideration is properly discarded (§ 561). Contracts implied in fact are distinguished from quasi-contracts (§ 771). The difference between failure of consideration, in the sense of breach by the plaintiff, and lack of consideration is clearly indicated (§ 274). Mistake as to parties or terms of the contract which may prevent its creation, and mistake as to other matters which at most may render it voidable, are well discriminated (§ 60). These instances might be multiplied. Many matters are capitally explained. The adding of duplicate citations to unofficial reports is commendable. No doubt the work will prove useful. C. B. W.

JURISDICTION AND PROCEDURE OF THE SUPREME COURT OF THE UNITED STATES. By Hannis Taylor. Rochester: The Lawyer's Co-operative Publishing Company. 1905. pp. lxvi, 1007. 8vo.

The publication of a text-book of over a thousand pages, dealing solely with the jurisdiction and procedure of the United States Supreme Court, marks an epoch in the literature on this subject. Practice in the Supreme Court has been dealt with at some length in a volume by Heber J. May, Esq., published by John Byrne and Company in 1899; but this volume was more like a volume of annotated court rules than a well-rounded treatise. Aside from Mr. May's book, the text-book sources to which the practising lawyer had to go for light on the subject were the chapters in books on the general subject of Federal Procedure. There was therefore a distinct call for the present work.

Professor Taylor seems to have met this call with great success. He does not content himself, as do so many text-book writers of the day, with a mere statement of head-notes or extracts from opinions — although there are many passages, some of them quite long, from the opinions of the court. Such extracts, however, and the brief digests of cases are admirably handled and so well blended with the comments of the author that, were it not for quotation marks, it would often be difficult to distinguish between the two. Nor does the author confine himself to a statement of the exact extent of the present jurisdiction and the method of procedure. He has followed the course which so distinguished Professor Thayer's methods — that of treating the entire subject from an historical and philosophical point of view. The subject is, of course, one especially adapted to such treatment.

The plan of the book is well arranged. In a preliminary chapter which, although entitled "Preface," contains much in excess of the usual prefatory remarks, there is "an outline of leading cases from the organization of the court to the present time," which illustrates in an interesting fashion not merely the development of the jurisdiction of the court, but its treatment of the various subjects of law which have come before it. The chief changes in the personnel of the court are also here noted. In an introductory chapter the origin and development of the court is treated at some length. There is an admirable disquisition upon the unique place occupied by the Supreme Court and the causes which brought it into its present position, wherein the scientific treatment of his subject by the author is especially noticeable. The chapter contains brief statements with regard to the effect upon the course of the court caused by the changes in the justices sitting.

The body of the work is divided into six main heads. Part I deals with the original jurisdiction of the court; Parts II, III, and IV deal with the appellate jurisdiction of the court over, respectively, the ordinary federal courts, the special federal courts, and the state courts; Part V discusses "The Great Writs," and Part VI deals with procedure. In two appendices are the rules of the Supreme Court and a collection of practical forms. Then follows an index and a table of cases cited, which shows a collection of some three thousand decisions.

Of the main divisions of the work, those which are most valuable to the ordinary practitioner are of course Parts II, IV, and VI, and they naturally take up the greater part of the text of the book, covering respectively 150, 125, and 165 pages. The arrangement of the topics under the main heads is good, and, while the text is rich in citations and in quotations, the author does not hesitate to give his own explanation and interpretation of the points discussed. In addition to citations of cases there are in numerous instances references to notes or exhaustive collections of cases made by others. The difficult task of stating one after another the leading cases decided by the Supreme Court, which is undertaken in the preface, is likewise skillfully handled.

The portions of the book dealing with the history of the court, and the sections dealing with the court's original jurisdiction, especially the boundary cases, make interesting reading even for a layman. The influence of Marshall, both in extending the jurisdiction of the court and in establishing it in its high place, is well set forth.

The mechanical part of the work is in general well done. The table of cases is not nearly so valuable as it would have been, however, had the names of the defendants been indexed as well as those of the plaintiff, for it not infrequently happens that the name of one of the parties only is recalled by the reader seeking the comment upon a case. The index also is open to the criticism that its list of main heads is altogether too small. It is hard to understand, for instance, why so often used a phrase as "full faith and credit" should not have a place in the alphabetical headings of the index. These, however, are very minor points of criticism.

The text-book is a welcome addition to the hitherto scant literature dealing with the Supreme Court, and will be helpful to every lawyer whose practice takes him before that important body. It will also well repay the study of the law student who wants to become familiar with the jurisdiction and practice of the highest court in the land. E. E. F.

A TREATISE ON THE LAW OF AGENCY, including Special Classes of Agents, Attorneys, Brokers, and Factors, Auctioneers, Masters of Vessels, etc. By William Lawrence Clark and Henry H. Skyles. In two volumes. St. Paul, Minn.: Keefe-Davidson Co. 1905. pp. liv, 1–1146; 1147–2178. 8vo.

Although the usual preface in which the writer of a new law-book commonly sets forth his aims is wanting in this work, it is easily to be guessed from a slight study of it that the object of our joint authors is the production of a more comprehensive treatise on the subject of Agency than any previously published. To a great extent they have succeeded. The book, in its nineteen hundred and more pages of text, besides stating general principles, treats of the finer points of the subject in detail, and substantiates its conclusions by citations far more exhaustive than those of any other work upon the subject. Add to these merits clearness of treatment, a convenient division and subdivision of topics plainly set forth in a satisfactory table of contents, and a reasonably complete index, all of which are provided by the writers, and we have a book most useful to the attorney seeking for information as to the state of the law.

Nevertheless it is not without its defects. Although it is by no means a mere collection of cases, yet its explanation of the difficult underlying theories of the relation of principal and agent is not so final as the student of the law might wish. For instance, it is certain that the relation of principal and agent, though consensual in its nature, is not strictly a contractual one. This is recognized on page 109, where it is stated: "A contract between principal and agent, as distinguished from mere consent of the principal, is not necessary to authority on the part of the agent. As we have seen, a person who has no capacity to make a binding contract may nevertheless be an agent." But in that section of chapter ii. entitled "Who May Be Principals" there is some tendency to